

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 8, 2010

Lyle W. Cayce
Clerk

No. 08-40979
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CRAIG LAMARIO MOSLEY,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:98-CR-14-18

Before KING, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:*

Craig Lamario Mosley, federal prisoner # 21362-009, was convicted of conspiracy to possess a controlled substance with intent to distribute and received the statutory minimum sentence of 240 months. He now appeals the district court's denial of his motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) based on amendments to the Sentencing Guidelines governing crack cocaine. The Government has moved for summary affirmance or, in the alternative, for an extension of time to file a brief.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Because Mosley was sentenced to a mandatory statutory minimum, the district court lacked authority to grant a reduction under § 3582(c)(2). *See United States v. Carter*, 595 F.3d 575, 579-81 (5th Cir. 2010); U.S.S.G. § 1B1.10, comment (n.1(A)). Mosley's reliance on the principles set forth in *United States v. Booker*, 543 U.S. 220 (2005), is without merit; *Booker* is inapplicable to a § 3582(c)(2) proceeding. *See Dillon v. United States*, 130 S. Ct. 2683, 2691-94 (2010).

The motion for summary affirmance is GRANTED, the judgment of the district court is AFFIRMED, and the Government's alternative motion for an extension of time is DENIED as unnecessary.